REMARKS

Claims 1-39 are pending in the Application.

Claims 1, 2, 7, 10, 11, 14, 15, 20, 23, 24, 27, 28, 33, 36 and 37 stand rejected.

Claims 1, 3-4, 8-9, 12, 14, 16-17, 21-22, 25, 27, 29-30, 34-35, and 38 are currently amended.

Claims 2, 15, and 28 are currently cancelled.

Claims 3-6, 8-9, 12-13, 16-19, 21-22, 25-26, 29-32, 34-35, and 38-39 stand objected to but would be allowable if rewritten in independent form including all of the limitations of the base clam and any intervening claims. Applicants have rewritten claims 3-4, 8-9, 12, 16-17, 21-22, 25, 29-30, 34-35, and 38 in independent form to include all of the limitations of their respective base claims and any intervening claims. Claims 5-6 depend from claim 4, contain all of the limitations of claim 4, and are likewise patentable over *Kanevsky*. Claim 13 depends from claim 12, contains all of the limitations of claim 13, and is likewise patentable over *Kanevsky*. Claims 18-19 depend from claim 17, recite all of the limitations of claim 17, and are likewise patentable over *Kanevsky*. Claim 26 depends from claim 25, recites all of the limitations of claim 25, and is likewise patentable over *Kanevsky*. Claims 31-32 depend from claim 30, recite all of the limitations of claim 30, and are likewise patentable over *Kanevsky*. Claim 39 depends from claim 38, recites all of the limitations of claim 38, and is likewise patentable over *Kanevsky*.

Summarizing, as amended independent claims 3-4, 8-9, 12, 16-17, 21-22, 25, 29-30, 34-35, and 38 are allowable over *Kanevsky*. Dependent claims 5-6, 13, 18-19, 26, 31-32, and 39 depend from these independent claims and are likewise allowable over *Kanevsky*. Applicants respectfully request early allowance of these claims. The rejections to claims 1, 7, 10-11, 14, 20, 23, 24, 27, 33, and 36-37 are respectfully traversed below.

OBJECTIONS TO DRAWINGS & SPECIFICATION

Figure 5 stands objected to because shading obscures the text. *See* Office Action mailed 4/29/2004, ¶ 1. In response, Applicants currently submit a replacement sheet without the shading. No new matter is added to Figure 5 by removing the shading.

The Specification stands objected to for typographical errors on pages 17, 19, and 20. Office Action mailed 4/29/2004, ¶ 2. These typographical errors are currently corrected. As required by the Examiner, Applicants corrected the Specification text to coincide with Figure 5 regarding steps 5.10 and 5.11. Applicants currently submit a replacement sheet for page 15 because the page received by Examiner was mutilated and torn. The foregoing changes have been made without the addition of new matter to the Specification or drawings.

REJECTIONS UNDER 35 U.S.C. § 102

Claims 1, 2, 7, 10, 11, 14, 15, 20, 23, 24, 27, 28, 33, 36 and 37 stand rejected as anticipated by *Kanevsky* (U.S. Patent No. 6,665,644). *Kanevsky* discloses an apparatus and method for data mining based on voice characteristics. *See Kanevsky* Abstract. The system includes an apparatus for determining the age, gender, socioeconomic classification, emotional state, and educational level of a user of a voice system. *Kanevsky*, col. 3, lines 48-58. Example objectives of the system are to detect users who are vulnerable to a sales pitch or to detect users who have problems with the automated system and need to be transferred to a human operator. *Kanevsky*, col. 7, lines 47-53. When a confused emotional state is detected, the system may switch a user from the substantially automatic IVR system to a human operator in response to the confused emotional state. *Kanevsky*, col. 12, lines 38-41.

Kanevsky does not disclose all elements of amended claim 1. As amended, claim 1 recites "the caller type is based on the caller's level of <u>competence for using the IVR system</u>." (emphasis added). Determining "competence for using the IVR system" is patentably distinguishable from *Kanevsky*'s determining "education level" and other parameters. In *Kanevsky*, "educational level" is used in context with gender, age, native language, dialect, and socioeconomic classification. *Kanevsky*, col. 14, lines 48-53. In this context, "educational level" suggests determining whether someone finished high school or college, for example. Whether someone finished college may be useful for marketing purposes such as in *Kanevsky*, but it is not necessarily an indicator of whether someone is competent at using an IVR. Further, as disclosed in the present specification, "[c]ompetence may change within the same application." *See* Original Application, page 4, lines 14-15. To the contrary, a person's education level does not

change during a call to an IVR system. Therefore, competence for using an IVR system is distinguishable from *Kanevsky*'s "education level."

Claim 1 is further distinguishable from *Kanevsky*. As amended, claim 1 recites the step of making a dialog decision comprising "determining a type of automatic verbal response to provide to the caller." *Kanevsky* does not disclose these elements. *Kanevsky* discloses data mining for information useful for marketing. *See Kanevsky*, col. 7, lines 48-50. *Kanevsky* discloses transferring a confused user from the automatic IVR system to a <u>human</u> operator. Col. 12, lines 37-40. Likewise, *Kanevsky* discloses transferring an emotional ("disgusted, contemptuous, fearful, and angry") user to either a low-level <u>human</u> operator or higher-level <u>human</u> supervisor. Col. 12, lines 18-30. These disclosures in *Kanevsky* are distinguishable from claim 1's subject matter. Transferring a confused or emotional user to a <u>human</u> operator is not determining a type of <u>automatic</u> verbal response to provide the caller.

Kanevsky discloses, "modifying behavior of the voice system based on at least one user attribute." Col. 10, lines 57-59. Further, the "modification of the behavior" can include a "changing of the business logic of the voice system" and "real-time modifying of the voice system response." Col. 10, lines 59-63. The example given for modification of the behavior is "transferring a perturbed user to a human operator." Col. 10, lines 65-67. As discussed above, such transfers to <u>human</u> operators do not represent determining a type of <u>automatic</u> verbal response to provide. *Kanevsky* also discloses quizzing a middle aged woman from a wealthy area about expensive cosmetics and offering bass fishing products to a jovial male from a rural area. *Kanevsky*, col. 12, lines 4-17. To the extent these disclosures may represent "determining a type of automatic verbal response to provide to the caller," the choice of automatic verbal response is not based on a caller type based on level of competence for using the IVR system. Determining <u>age</u>, <u>gender</u>, and <u>geographical location</u> is not determining a caller's level of <u>competence for using the IVR system</u>. Therefore, *Kanevsky* does not disclose all elements of claim 1.

The Examiner asserts "an educational level of the user reflects the competence level of the user." *See* Office Action, mailed 4/29-2004, page 5. In response, claims requiring competence level have been modified to include limitations "for using an IVR system." Applicant respectfully disagrees with any assertion that an educational level of the user reflects

the competence level of the user for using an IVR system. In the present invention, a college professor (i.e., well educated person) could be a novice at using IVR systems and a high-school freshman could be an expert, depending on responses provided to the IVR system. IVR systems are presumably designed for ease of use regardless of "education level" as used in *Kanevsky*.

For at least these reasons, *Kanevsky* does not disclose every limitation of claim 1. Claims 7 and 10-11 depend from claim 1 and therefore recite the limitations of claim 1. Therefore, claims 1, 7 and 10-11 are patentable over *Kanevsky* under 35 U.S.C. § 102.

Independent claim 14 stands rejected under the same rationale as claim 1. Amended claim 14 recites limitations similar to claim 1 that "the caller type is based on the caller's level of competence for using the IVR system" and "making the dialog decision comprises determining a type of automatic verbal response to provide to the caller." As discussed in the foregoing with regard to claim 1, *Kanevsky* does not disclose these elements of claim 14. For at least these reasons, *Kanevsky* does not anticipate claim 14. Claims 20 and 23-24 depend from claim 14 and therefore recite the limitations of claim 14. Therefore, claims 14, 20, and 23-24 are patentable over *Kanevsky* under 35 U.S.C. § 102.

Independent claim 27 stands rejected under the same rationale as claim 1. Amended claim 27 recites limitations similar to claim 1 that "the caller type is based on the caller's level of competence for using the IVR system" and "making the dialog decision comprises determining a type of automatic verbal response to provide to the caller." As discussed above with regard to claim 1, *Kanevsky* does not disclose these elements of claim 27. For at least these reasons, *Kanevsky* does not anticipate claim 27. Claims 33 and 36-37 depend from claim 27 and therefore recite the limitations of claim 27. Therefore, claims 27, 33 and 36-37 are patentable over *Kanevsky* under 35 U.S.C. § 102.

CONCLUSION

In consideration of the foregoing, all remaining claims are in condition for allowance. Applicants respectfully request an early allowance of such claims. Applicants respectfully request that the Examiner call Applicants' attorney at the below-listed number if the Examiner believes that such a discussion would be helpful in resolving any remaining issues.

Respectfully submitted,

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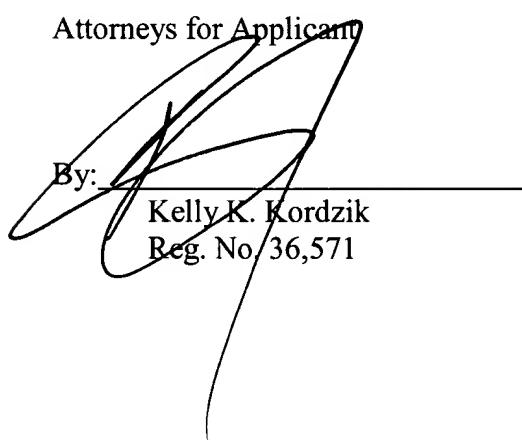
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